

रजिस्टर्ड नं० ल०-३३/एस० एम० १४/९१.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 20 अप्रैल, 1991/३० चंद्र, 1913

हिमाचल प्रदेश सरकार

विधि विभाग

अधिसूचना

शिमला-171002, 20 अप्रैल, 1991

क्रमांक एल० एल० आर० (डी) (6)-3191 लेजिस.—हिमाचल प्रदेश के राज्यपाल, भारत के संविधान के अनुच्छेद 200 के अधीन प्रदत् शक्तियों का प्रयोग करते हुए तारीख 18 अप्रैल, 1991 को अनुमोदित हिमाचल प्रदेश

यात्री और माल कराधान (संशोधन) विधेयक, 1991 (1991 का विधेयक संख्या 7) को वर्ष 1991 के हिमाचल प्रदेश अधिनियम संख्यांक 8 के रूप में संविधान के अनुच्छेद 348 (3) के अधीन उसके प्राधिकृत पाठ सहित, हिमाचल प्रदेश राजपत्र में प्रकाशित करते हैं।

आदेश द्वारा,
अमरेन्द्र लाल वैद्य,
सचिव।

1991 का अधिनियम संख्यांक 8.

हिमाचल प्रदेश यात्री और माल कराधान (संशोधन) अधिनियम, 1991

(राज्यपाल महोदय द्वारा तारीख 18 अप्रैल, 1991 को यथा अनुमोदित)

हिमाचल प्रदेश पैसेन्जर्स एण्ड गुड्ज टैक्सेशन एक्ट, 1955 (1955 का 15) का और संशोधन करने के लिए अधिनियम।

भारत गणराज्य के व्यालीसवें वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्न-लिखित रूप में यह अधिनियमित होः—

1. (1) इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश यात्री और माल कराधान (संशोधन) अधिनियम, 1991 है।
संक्षिप्त नाम
और प्रारम्भ।

(2) यह तरन्त प्रवृत्त होगा, सिवाए इस अधिनियम की धारा 2 के खण्ड (ii) और धारा 4 के, जो अक्टूबर, 1990 के प्रथम दिन को प्रवृत्त हुई समझी जाएंगी।

2. हिमाचल प्रदेश पैसेन्जर्स एण्ड गुड्ज टैक्सेशन एक्ट, 1955 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 में,—
धारा 2 का संशोधन।

(i) विद्यमान खण्ड (a) को (aa) के रूप में पुनःसंख्यांकित किया जाएगा और इस प्रकार पुनःसंख्यांकित खण्ड से पूर्व निम्नलिखित नया खण्ड (a) अन्तःस्थापित किया जाएगा, अर्थात्:—

“(a) “Assessing Authority” means any person authorised by the State Government to make any assessment under this Act;”

(ii) खण्ड (e) के स्थान पर निम्नलिखित खण्ड (e) प्रतिस्थापित किया जाएगा, अर्थात्:—

“(e) “motor vehicle” means any transport vehicle, which is mechanically propelled and adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source, or a trailer when attached to any such vehicle and includes a motor vehicle used for carriage of passengers or goods or both for hire or reward in contravention of the provisions of the Motor Vehicles Act, 1988 (Act No. 59 of 1988);”

(iii) खण्ड (g) के पश्चात् निम्नलिखित नया खण्ड (gg) अन्तःस्थापित किया जाएगा, अर्थात्:—

“(gg) “Prescribed” means prescribed by rules framed under this Act;” और

(iv) खण्ड (j) में शब्दों, चिन्ह, अंकों और कोष्ठों “Motor Vehicles Act, 1939 (4 of 1939)” के स्थान पर “Motor Vehicles Act, 1988 (59 of 1988)” शब्द, चिन्ह, अंक और कोष्ठ प्रतिस्थापित किए जाएंगे।

धारा 3 का
संशोधन।

3. मूल अधिनियम की धारा 3 में,—

(क) उप-धारा (2) में अंकों “1939” के स्थान पर “1988” अंक प्रतिस्थापित किए जाएंगे ; और

(ख) उप-धारा (2-A) में,—

(i) चिन्हों और शब्दों “other than a public service vehicle,” का लोप किया जाएगा ; और

(ii) शब्दों, चिन्हों, अंकों और कोष्ठों “Motor Vehicles Act, 1939 (4 of 1939)”, के स्थान पर “Motor Vehicles Act, 1988 (59 of 1988)”, शब्द, चिन्ह, अंक और कोष्ठ प्रतिस्थापित किए जाएंगे ।

धारा 4 का
संशोधन।

4. मूल अधिनियम की धारा 4 में विद्यमान परन्तुक के स्थान पर निम्नलिखित परन्तुक प्रतिस्थापित किए जाएंगे, अर्थात्:—

“Provided that in the case of goods carriages or motor cabs, maxi cabs and scooter rickshaws, the Government may assess a lump-sum in lieu of the tax or tax and surcharge, as the case may be, on freight or fare, in the manner prescribed :

Provided further that in case of motor vehicle (including the stage or contract carriages), other than those specified in the first proviso, in which the passengers are carried, the State Government may assess the tax and surcharge at lump-sum, in the manner prescribed, taking into consideration the registered capacity of the vehicle and the distance travelled or to be travelled by such motor vehicles under a permit issued to such vehicle.”

धारा 6 का
प्रतिस्थापन। प्रतिस्थापित की जाएगी, अर्थात्:—

“6. Keeping of accounts and submission of returns.—(1) An owner shall keep such accounts and submit to the Assessing Authority such returns at such intervals as may be prescribed.

(2) The owner shall pay the full amount of tax and surcharge due from him under this Act in the prescribed manner before furnishing returns referred to in sub-section (1) and attach proof of payment with such returns :

Provided that where the amount of passenger tax and surcharge is paid by way of adhesive stamps, the treasury receipt for the purchase of such stamps shall be attached with the returns.”.

धारा 8 का
संशोधन।

6. मूल अधिनियम की धारा 8 की उप-धारा (2) में, शब्दों, चिन्ह, अंकों और कोष्ठों “Motor Vehicles Act, 1939 (4 of 1939)” के स्थान पर क्रमशः “Motor Vehicles Act, 1988 (59 of 1988)” शब्द, चिन्ह, अंक और कोष्ठ और अंक “62” के स्थान पर “87” अंक प्रतिस्थापित किए जाएंगे ।

7. मूल अधिनियम की धारा 9 में,—

धारा 9 का
संशोधन।

- (i) उप-धारा (3) में, अंक "1939" के स्थान पर "1988" अंक प्रतिस्थापित किए जाएंगे ; और
- (ii) विद्यमान उप-धारा (4) का लोप किया जाएगा ।

8. मूल अधिनियम की धारा 9 के पश्चात् निम्नलिखित नई धाराओं 9-A, 9-B और 9-C का अन्तःस्थापन किया जाएगा, अर्थात्:—

नई धाराओं
9-A, 9-B
और 9-C का
अन्तःस्थापन।

"9-A. Owner to furnish security.—(1) Where it appears to the Assessing Authority necessary so to do, for the proper realisation of the tax or surcharge levied under this Act, it may, after giving an opportunity of being heard, require any owner to furnish security of an amount not exceeding twenty thousand rupees in the manner prescribed.

(2) Where the security furnished by an owner under sub-section (1) is in the form of surety-bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the owner shall, within fifteen days of the occurrence of any of the aforesaid events, inform the Assessing Authority and shall within thirty days of such occurrence furnish a fresh surety-bond.

(3) The Assessing Authority may, by an order in writing for good and sufficient cause and after giving the owner a reasonable opportunity of being heard, forfeit the whole or any part of the security furnished by the owner for realising any amount of tax or penalty payable by him under this Act.

(4) Where by reason of an order under sub-section (3), the security furnished by any owner is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(5) The Assessing Authority may, on application by an owner, release the security furnished by him or any part thereof, if the same is no longer required to be retained for the purposes of this Act.

9-B. Assessment of tax and surcharge.—(1) Where the Assessing Authority is satisfied without requiring the presence of the owner or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, it shall assess the amount of tax or surcharge on the basis of such returns.

(2) Where the Assessing Authority is not satisfied without requiring presence of owner or production of evidence that the returns furnished in respect of any period are correct and complete, it shall serve on such owner a notice in the prescribed manner requiring him on a date and place specified therein either to attend in person or to produce or to cause to be produced any evidence on which the owner may rely in support of such returns.

(3) On the date specified in the notice or as soon afterwards as may be, the Assessing Authority shall, after hearing such evidence as the owner may produce, and such other evidence as the Assessing Authority

may require on specified points, assess the amount of tax or surcharge due from the owner.

(4) If any owner, having furnished returns in respect of any period fails to comply with the notice issued under sub-section (2), the Assessing Authority shall within three years after the expiry of such period, assess to the best of his judgment the amount of tax or surcharge due from the owner.

(5) If the Assessing Authority is satisfied that any owner is liable to pay tax or surcharge under this Act in respect of any period but who has wilfully failed to apply for registration or to pay the tax or surcharge, as the case be, the said authority may, after giving the owner a reasonable opportunity of being heard, assess the amount of tax or surcharge if any, due from the owner and also direct that the owner shall pay in the prescribed manner by way of penalty a sum not exceeding five times the amount of tax or surcharge so assessed subject to a minimum of five hundred rupees.

9-C. Re-assessment of tax and surcharge.—(1) If in consequence of an information which has come into his possession, the Assessing Authority discovers that the tax or surcharge due from the owner has been under assessed or has escaped assessment in any year, the Assessing Authority may at any time within five years following the close of the year for which re-assessment is to be made and after giving a reasonable opportunity, in the prescribed manner, of being heard proceed to re-assess the tax or surcharge payable, which has been under-assessed or has escaped assessment.

(2) The Assessing Authority may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical error apparent from the record.”.

धारा 16
का
प्रतिवर्धापन।

9. मूल अधिनियम की धारा 16 के स्थान पर निम्नलिखित धारा 16 प्रतिस्थापित की जाएगी, अर्थात्:—

“16. Revisions.—(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by any authority subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.

(3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”.

10. मूल अधिनियम की धारा 22 की उप-धारा (2) में—

धारा 22 का

(i) खण्ड (C) के पश्चात्, निम्नलिखित खण्ड अन्तःस्थापित किए जाएंगे, अर्थात्:— तंशोधन ।

“(cc) Prescribing the returns to be furnished under sub-section (1) of section 6 and intervals at which such returns shall be furnished;

(ccc) prescribing the manner of payment of tax and surcharge under sub-section (2) of section 6;” और

(ii) खण्ड (d) के पश्चात् निम्नलिखित खण्ड अन्तःस्थापित किए जाएंगे, अर्थात्:—

“(dd) prescribing the manner in which the security is to be furnished under sub-section (1) of section 9-A and the time within which and the manner in which the security rendered insufficient is to be made up under sub-section (4) of that section ;

(ddd) prescribing the manner for serving notice on the owner under sub-section (2) of section 9-B and the manner for payment of penalty under sub-section (5) of that section ;

(dddd) prescribing the manner for giving reasonable opportunity for re-assessment of tax and surcharge under sub-section (2) of section 9-C;” और

(iii) खण्ड (i) के अन्त में आए चिन्ह “.” के स्थान पर “:” चिन्ह प्रतिस्थापित किया जाएगा और इस के पश्चात् निम्नलिखित परन्तुक जोड़े जाएंगे, अर्थात्:—

“Provided that the State Government may, for the purpose of section 4 of this Act, make rules with retrospective effect so as to be effective from any day on or after 1st day of October, 1990:

Provided further that unless the rules are made under the preceding proviso, the State Government may make rules under this Act subject to the condition of previous publication.”.

AUTHORITATIVE ENGLISH TEXT

Act No. 8 of 1991.

**THE HIMACHAL PRADESH PASSENGERS AND GOODS
TAXATION (AMENDMENT) ACT, 1991**

(AS ASSENTED TO BY THE GOVERNOR ON 18TH APRIL, 1991)

AN

ACT

further to amend the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (Act No. 15 of 1955).

Be it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of Republic of India as follows:—

Short title
and commen-
cement.

1. (1) This Act may be called the Himachal Pradesh Passengers and Goods Taxation (Amendment) Act, 1991.

(2) It shall come into force at once except clause (ii) of section 2 and section 4 of this Act, which shall be deemed to have come into force with effect from 1st day of October, 1990.

Amendment
of section 2.

2. In section 2 of the Himachal Pradesh Passengers and Goods Taxation Act, 1955 (hereinafter referred to as the principal Act),—

5 of 1955

(i) the existing clause (a) shall be re-numbered as (aa) and before this clause as so re-numbered, the following new clause (a) shall be inserted, namely:—

“(a) ‘Assessing Authority’ means any person authorised by the State Government to make any assessment under this Act ;”;

(ii) for clause (e), the following clause (e) shall be substituted, namely:—

“(e) ‘motor vehicle’ means any transport vehicle, which is mechanically propelled and adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source, or a trailer when attached to any such vehicle and includes a motor vehicle used for carriage of passengers or goods or both for hire or reward in contravention of the provisions of the Motor Vehicles Act, 1988 (Act No. 59 of 1988);”;

(iii) after clause (g), the following new clause (gg) shall be inserted, namely :—

“(gg) ‘prescribed’ means prescribed by rules framed under this Act ;” ; and

(iv) in clause (j) for the words, sign, figures and brackets “Motor Vehicles Act, 1939 (4 of 1939)” the words, sign, figures and brackets “Motor Vehicles Act, 1988 (59 of 1988)” shall be substituted.

3. In section 3 of the principal Act,—

Amendment
of section 3.

- (a) in sub-section (2), for the figure “1939”, the figure “1988” shall be substituted ; and
- (b) in sub-section (2-A),—
 - (i) the signs and the words “,other than a public service vehicle,” shall be omitted ; and
 - (ii) for the words, sign, figures and brackets “Motor Vehicles Act, 1939 (4 of 1939)” the words, sign, figures and brackets “Motor Vehicles Act, 1988 (59 of 1988)” shall be substituted.

4. In section 4 of the principal Act, for existing provisos the following provisos, shall be substituted, namely:—

Amendment
of section 4.

“Provided that in the case of goods carriages or motor cabs, maxi cabs and scooter rickshaws, the Government may assess a lump sum in lieu of the tax or tax and surcharge, as the case may be, on freight or fare in the manner prescribed :

Provided further that in case of motor vehicle (including the stage or contract carriages), other than those specified in the first proviso, in which the passengers are carried, the State Government may assess the tax and surcharge at lump sum, in the manner prescribed, taking into consideration the registered capacity of the vehicle and the distance travelled or to be travelled by such motor vehicles under a permit issued to such vehicle.”.

5. For the existing section 6 of the principal Act, the following shall be substituted, namely :—

Substitution
of section 6.

“6. *Keeping of accounts and submission of returns.*—(1) An owner shall keep such accounts and submit to the Assessing Authority such returns at such intervals as may be prescribed.

(2) The owner shall pay the full amount of tax and surcharge due from him under this Act, in the prescribed manner before furnishing returns referred to in sub-section (1) and attach proof of payment with such returns :

Provided that where the amount of passengers tax and surcharge is paid by way of adhesive stamps, the treasury receipt for the purchase of such stamps shall be attached with the returns.”.

6. In section 8 of the principal Act, in sub-section (2), for the words, sign, figures and brackets “Motor Vehicles Act, 1939 (4 of 1939)” and the figure “62”, the words, sign, figures and brackets “Motor Vehicles Act, 1988 (59 of 1988)” and the figure “87” shall, respectively, be substituted.

Amendment
of section 8.

7. In section 9 of the principal Act,—

Amendment
of section 9.

- (i) in sub-section (3), for the figure “1939”, the figure “1988” shall be substituted; and
- (ii) the existing sub-section 4 shall be omitted.

Insertion of
new sections
9-A, 9-B and
9-C.

8. After section 9 of the principal Act, the following new sections 9-A, 9-B and 9-C shall be inserted, namely:—

“9-A. Owner to furnish security.—(1) Where it appears to the Assessing Authority necessary so to do, for the proper realisation of the tax or surcharge levied under this Act, it may, after giving an opportunity of being heard require any owner to furnish security of an amount not exceeding twenty thousand rupees in the manner prescribed.

(2) Where the security furnished by an owner under sub-section (1) is in the form of surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the owner shall, within fifteen days of the occurrence of any of the aforesaid events, inform the Assessing Authority and shall within thirty days of such occurrence furnish a fresh surety bond.

(3) The Assessing Authority may, by an order in writing for good and sufficient cause and after giving the owner a reasonable opportunity of being heard, forfeit the whole or any part of the security furnished by the owner for realising any amount of tax or penalty payable by him under this Act.

(4) Where by reason of an order under sub-section (3), the security furnished by any owner is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(5) The Assessing Authority may, on application by an owner, release the security furnished by him or any part thereof, if the same is no longer required to be retained for the purposes of this Act.

9-B. Assessment of tax and surcharge.—(1) Where the Assessing Authority is satisfied without requiring the presence of the owner or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, it shall assess the amount of tax or surcharge on the basis of such returns.

(2) Where the Assessing Authority is not satisfied without requiring presence of owner or production of evidence that the returns furnished in respect of any period are correct and complete, it shall serve on such owner a notice in the prescribed manner requiring him on a date and place specified therein either to attend in person or to produce or to cause to be produced any evidence on which the owner may rely in support of such returns.

(3) On the date specified in the notice or as soon afterwards as may be, the Assessing Authority shall, after hearing such evidence as the owner may produce, and such other evidence as the Assessing Authority may require on specified points assess the amount of tax or surcharge due from the owner.

(4) If any owner, having furnished returns in respect of any period fails to comply with the notice issued under sub-section (2),

the Assessing Authority shall within three years after the expiry of such period, assess to the best of his judgment the amount of tax or surcharge due from the owner.

(5) If the Assessing Authority is satisfied that any owner is liable to pay tax or surcharge under this Act in respect of any period but who has wilfully failed to apply for registration or to pay the tax or surcharge as the case may be, the said authority may, after giving the owner a reasonable opportunity of being heard, assess the amount of tax or surcharge, if any, due from the owner and also direct that the owner shall pay in the prescribed manner by way of penalty a sum not exceeding five times the amount of tax or surcharge so assessed subject to a minimum of five hundred rupees.

9-C. Re-assessment of tax and surcharge.—(1) If in consequence of an information which has come into his possession, the Assessing Authority discovers that the tax or surcharge due from the owner has been under-assessed or has escaped assessment in any year, the Assessing Authority may at any time within five years following the close of the year for which re-assessment is to be made and after giving a reasonable opportunity, in the prescribed manner, of being heard proceed to re-assess the tax or surcharge payable, which has been under-assessed or has escaped assessment.

(2) The Assessing Authority may, at any time, within one year from the date of any order passed by him and subject to such conditions as may be prescribed, rectify any clerical or arithmetical error apparent from the record.”.

9. For section 16 of the principal Act, the following shall be substituted, namely:—

Substitution
of section 16.

“16. Revisions.—(1) The Commissioner may, of his own motion, call for the record of any proceedings which are pending before, or have been disposed of by, any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto as he may think fit.

(2) The State Government may by notification confer on any officer powers of the Commissioner under sub-section (1) to be exercised subject to such conditions and in respect of such areas as may be specified in the notification.

(3) No order shall be passed under this section which adversely affects any person unless such person has been given a reasonable opportunity of being heard.”.

10. In sub-section (2) of section 22 of the principal Act, —

Amendment
of section 22.

(i) after clause (c), the following clauses, shall be inserted, namely:—

“(cc) prescribing the returns to be furnished under sub-section (1) of section 6 and intervals at which such returns shall be furnished;

(ccc) prescribing the manner of payment of tax and surcharge under sub-section (2) of section 6 ;”

(ii) after clause (d), the following clauses shall be inserted, namely:—

“(dd) prescribing the manner in which the security is to be furnished under sub-section (1) of section 9-A and the time within which and the manner in which the security rendered insufficient is to be made up under sub-section (4) of that section;

(ddc) prescribing the manner for serving notice on the owner under sub-section (2) of section 9-B and the manner for payment of penalty under sub-section (5) of that section ;

(dddc) prescribing the manner for giving reasonable opportunity for re-assessment of tax and surcharge under sub-section (2) of section 9-C;”; and

(iii) in clause (i) , for the sign “.” occurring at the end, the sign “;” shall be substituted and thereafter the following provisos shall be added, namely:—

“Provided that the State Government may, for the purposes of section 4 of this Act, make rules with retrospective effect so as to be effective from any day on or after 1st day of October, 1990 :

Provided further that unless the rules are made under the preceding proviso, the State Government may make rules under this Act subject to the condition of previous publication .”.